

TWENTIETH DAY - FEBRUARY 3, 2005

LEGISLATIVE JOURNAL

**NINETY-NINTH LEGISLATURE
FIRST SESSION**

TWENTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 3, 2005

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Byars, Combs, and McDonald who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the nineteenth day was approved.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 62. Placed on General File.

LEGISLATIVE BILL 105. Placed on General File.

LEGISLATIVE BILL 110. Placed on General File.

LEGISLATIVE BILL 360. Placed on General File.

LEGISLATIVE BILL 362. Placed on General File.

LEGISLATIVE BILL 363. Placed on General File.

LEGISLATIVE BILL 402. Placed on General File.

LEGISLATIVE BILL 419. Placed on General File.

LEGISLATIVE BILL 648. Placed on General File.

LEGISLATIVE BILL 649. Placed on General File.

LEGISLATIVE BILL 650. Placed on General File.

LEGISLATIVE BILL 115. Placed on General File as amended.

Standing Committee amendment to LB 115:

AM0107

- 1 1. On page 3, line 9, strike "or the right to appeal";
- 2 strike beginning with "in" in line 12 through "crime" in line 13
- 3 and insert "for a term of more than one year or a crime committed

4 outside of Nebraska"; strike "one year or more" and insert "more
5 than one year"; and in line 18 strike the new matter.

LEGISLATIVE BILL 151. Placed on General File as amended.

Standing Committee amendment to LB 151:

AM0023

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 8-1,131, Revised Statutes
4 Supplement, 2004, is amended to read:
5 8-1,131. (1) All banks chartered under the laws of
6 Nebraska are qualified to act as trustee or custodian within the
7 provisions of the federal Self-Employed Individuals Tax Retirement
8 Act of 1962, as amended, or under the terms and provisions of
9 section 408(a) of the Internal Revenue Code, if the provisions of
10 such retirement plan require the funds of such trust or
11 custodianship to be invested exclusively in shares or accounts in
12 the bank or in other banks. If any such retirement plan, within
13 the judgment of the bank, constitutes a qualified plan under the
14 federal Self-Employed Individuals Tax Retirement Act of 1962, or
15 under the terms and provisions of section 408(a) of the Internal
16 Revenue Code and the regulations promulgated thereunder at the time
17 the trust was established and accepted by the bank, and is
18 subsequently determined not to be such a qualified plan or
19 subsequently ceases to be such a qualified plan, in whole or in
20 part, the bank may continue to act as trustee of any deposits
21 theretofore made under such plan and to dispose of the same in
22 accordance with the directions of the member and beneficiaries
23 thereof. No bank, in respect to savings made under this
24 subsection, shall be required to segregate such savings from other
1 liabilities of the bank. The bank shall keep appropriate records
2 showing in proper detail all transactions engaged in under the
3 authority of this subsection.
4 (2)(a) All banks chartered under the laws of Nebraska are
5 qualified to act as trustee or custodian of a medical savings
6 account created within the provisions of section 220 of the
7 Internal Revenue Code and a health savings account created within
8 the provisions of section 223 of the Internal Revenue Code. If any
9 such medical savings account or health savings account, within the
10 judgment of the bank, constitutes a medical savings account under
11 section 220 of the Internal Revenue Code or a health savings
12 account under section 223 of the Internal Revenue Code and the
13 regulations promulgated thereunder at the time the trust was
14 established and accepted by the bank, and is subsequently
15 determined not to be such a medical savings account or health
16 savings account, in whole or in part, the bank may continue to act
17 as trustee of any deposits theretofore made under such plan and to
18 dispose of the same in accordance with the directions of the
19 account holder. No bank, in respect to savings made under this

20 subsection, shall be required to segregate such savings from other
21 liabilities of the bank. The bank shall keep appropriate records
22 showing in proper detail all transactions engaged in under the
23 authority of this subsection.

24 (b) Except for judgments against the medical savings
25 account holder or health savings account holder or his or her
26 dependents for qualified medical expenses as defined under section
27 223(d)(2) of the Internal Revenue Code, funds credited to a medical
1 savings account or health savings account are not susceptible to
2 levy, execution, judgment, or other operation of law, garnishment,
3 or other judicial enforcement and are not an asset or property of
4 the account holder for purposes of bankruptcy law.

5 Sec. 2. Section 21-1799, Revised Statutes Supplement,
6 2004, is amended to read:

7 21-1799. (1) All credit unions chartered under the laws
8 of Nebraska shall be qualified to act as a trustee or custodian
9 within the provisions of the federal Self-Employed Individuals Tax
10 Retirement Act of 1962 or under the terms and provisions of section
11 408(a) of the Internal Revenue Code if the provisions of such
12 retirement plan require the funds of such trust or custodianship to
13 be invested exclusively in shares or accounts in the credit union
14 or other credit unions.

15 (2) All credit unions chartered under the laws of
16 Nebraska are qualified to act as trustee or custodian of a medical
17 savings account created within the provisions of section 220 of the
18 Internal Revenue Code and a health savings account created within
19 the provisions of section 223 of the Internal Revenue Code. Except
20 for judgments against the medical savings account holder or health
21 savings account holder or his or her dependents for qualified
22 medical expenses as defined under section 223(d)(2) of the Internal
23 Revenue Code, funds credited to a medical savings account or health
24 savings account are not susceptible to levy, execution, judgment,
25 or other operation of law, garnishment, or other judicial
26 enforcement and are not an asset or property of the account holder
27 for purposes of bankruptcy law.

1 (3) All credit unions chartered under the laws of
2 Nebraska are qualified to act as trustee or custodian of an
3 education individual retirement account created within the
4 provisions of section 530 of the Internal Revenue Code.

5 (4) All credit unions chartered under the laws of
6 Nebraska are qualified to act as trustee or custodian of a Roth IRA
7 created within the provisions of section 408A of the Internal
8 Revenue Code.

9 (5) If any such plan, in the judgment of the credit
10 union, constitutes a qualified plan under the federal Self-Employed
11 Individuals Tax Retirement Act of 1962, or under the terms and
12 provisions of section 220, 408(a), 408A, or 530 of the Internal
13 Revenue Code, and the regulations promulgated thereunder at the
14 time the trust was established and accepted by the credit union is

15 subsequently determined not to be such a qualified plan, or
 16 subsequently ceases to be such a qualified plan, in whole or in
 17 part, the credit union may continue to act as trustee of any
 18 deposits which have been made under such plan and to dispose of
 19 such deposits in accordance with the directions of the member and
 20 beneficiaries thereof.

21 (6) No credit union, with respect to savings made under
 22 this section, shall be required to segregate such savings from
 23 other assets of the credit union, but the credit union shall keep
 24 appropriate records showing in detail all transactions engaged in
 25 pursuant to this section.

26 Sec. 3. Original sections 8-1,131 and 21-1799, Revised
 27 Statutes Supplement, 2004, are repealed."

(Signed) Patrick J. Bourne, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 597. Placed on General File as amended.
 Standing Committee amendment to LB 597:

AM0210

- 1 1. On page 14, lines 15 and 17; and page 15, line 7,
 2 after "renewed," insert "or" and strike ", or reissued".
- 3 2. On page 14, line 26; and page 15, line 19, strike "or
 4 renewal" and insert ", renewal, or transferred".
- 5 3. On page 15, line 8, after "determination" insert "of
 6 no security threat"; strike beginning with "that" in line 10
 7 through "endorsement" in line 11; and in line 18 after
 8 "Administration" insert "or its agent".
- 9 4. On page 16, lines 1 and 4, after "Administration"
 10 insert "or its agent"; in line 8 strike "issuance" and insert "a
 11 determination of no security threat"; and in line 19 after "added"
 12 insert an underscored comma.
- 13 5. On page 17, line 1, after "Administration" insert "of
 14 the United States Department of Homeland Security or its agent";
 15 and strike beginning with "Assistant" in line 3 through "for" in
 16 line 4 and insert "designee of the".

(Signed) Tom Baker, Chairperson

COMMUNICATION

Received petitions from the Douglas County Board of Commissioners
 adopted on February 1, 2005.

GENERAL FILE

LEGISLATIVE BILL 54. Title read. Considered.

The Standing Committee amendment, AM0029, found on page 330, was considered.

Senator Cunningham renewed his pending amendment, AM0161, found on page 403, to the Standing Committee amendment.

Senator Cunningham withdrew his amendment.

The Standing Committee amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 16. Title read. Considered.

Advanced to E & R for review with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 17. Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 15. Title read. Considered.

The Standing Committee amendment, AM0030, printed separately and referred to on page 331, was considered.

Senator Landis renewed his pending amendment, AM0194, found on page 411, to the Standing Committee amendment.

The Landis amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 18. Title read. Considered.

The Standing Committee amendment, AM0032, found on page 331, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 263. Title read. Considered.

The Standing Committee amendment, AM0033, found on page 331, lost with 2 ayes, 21 nays, 18 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 283. Title read. Considered.

The Standing Committee amendment, AM0031, found on page 332, was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 329. Title read. Considered.**SENATOR JANSSEN PRESIDING****SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

AMENDMENT - Print in Journal

Senator Engel filed the following amendment to LB 205:
AM0190

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. Section 83-1212, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 83-1212. (1) If a developmental disability region does
- 6 not meet the requirements of section 83-1217, all ~~furniture,~~
- 7 ~~equipment, books, files, and~~ records, ~~and other property~~ used by
- 8 the developmental disability region for the administration of
- 9 services to persons with developmental disabilities shall be
- 10 transferred and delivered to the department. All real and personal
- 11 property used by the developmental disability region that is
- 12 purchased or maintained with state funds shall be transferred and
- 13 delivered to the department. Such property that is not purchased
- 14 or maintained with state funds shall not be transferred to the
- 15 department.
- 16 (2) If a developmental disability region meets the
- 17 requirements of section 83-1217, the developmental disability

18 region shall provide suitable office space, furniture, office
19 equipment, and access to files and records to the department for
20 purposes of carrying out the Developmental Disabilities Services
21 Act.

22 Sec. 2. Original section 83-1212, Reissue Revised
23 Statutes of Nebraska, is repealed."

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 28A. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 28, Ninety-ninth Legislature, First Session, 2005.

UNANIMOUS CONSENT - Add Cointroducer

Senator Redfield asked unanimous consent to have her name added as cointroducer to LBs 26, 63, and 65. No objections. So ordered.

VISITORS

Visitors to the Chamber were Scottsbluff/Gering United Chamber, Leadership Scottsbluff, Alliance Chamber, and Box Butte Leadership; 48 fourth grade students and teachers from Longfellow Elementary, Hastings; and Marlan Ferguson and Denise McGovern from Grand Island.

ADJOURNMENT

At 11:44 a.m., on a motion by Senator Connealy, the Legislature adjourned until 11:00 a.m., Friday, February 4, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

